

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

SUSAN EDWARDS	:	
PLAINTIFF	:	CIVIL ACTION NO: 1:13-CV-13209-RWZ
	:	
v.	:	
	:	MDL No. 2419
UNIFIRST CORPORATION, A/D/B/A;	:	Master Docket No. 1:13-md-2419-RWZ
UNICLEAN CLEANROOM SERVICES;	:	
MINNESOTA SURGERY CENTER;	:	Honorable Rya W. Zobel
MEDICAL ADVANCED PAIN	:	
SPECIALISTS, PA, and	:	
DAVID M. SCHULTZ, M.D.,	:	
DEFENDANTS	:	

**ANSWER OF DEFENDANT MINNESOTA SURGERY CENTER
TO PLAINTIFF'S FIRST AMENDED SHORT FORM COMPLAINT**

NOW comes the defendant Minnesota Surgery Center and makes the following response to the Plaintiff's First Amended Short Form Complaint:

FIRST COUNT

1. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 1 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
2. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 2 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
3. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 3 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
4. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 4 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
5. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 5 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.

6. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 6 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
7. To the extent Counts II through XIV of the Master Complaint contain allegations of negligence, gross negligence, violation of consumer protection statutes in Massachusetts or Minnesota, battery, failure to warn, violation of Minnesota Product Liability Claims, agency, civil conspiracy and/or punitive damages against this defendant, all of said allegations are Denied.
8. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 8 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
9. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 9 of the First Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
10. To the extent Paragraph 10 alleges negligence or causally connected damages against this defendant, all of said allegations are Denied. The defendant has insufficient information to admit or deny the remaining allegations of Paragraph 10 and therefore calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
11. To the extent Paragraph 11 alleges negligence or causally connected damages against this defendant, all of said allegations are Denied. The defendant further denies that the Plaintiff is entitled to punitive damages. The defendant has insufficient information to admit or deny the remaining allegations of Paragraph 11 and therefore calls upon the Plaintiff to prove same to the extent necessary at the time of trial.

WHEREFORE, the defendant Minnesota Surgery Center respectfully requests that this Honorable Court dismiss the First Count of the Plaintiff's First Amended Short Form Complaint and enter judgment in its behalf as to all claims made therein.

SECOND COUNT

12. The defendant repeats the responses made to Paragraphs 1 through 11 above as if specifically repeated and incorporated herein.
13. The defendant denies the allegations contained in Paragraph 13.

14. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 14 of the Second Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
15. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 15 of the Second Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
16. The defendant has insufficient knowledge to admit or deny the allegations of Paragraph 16 of the Second Count of the Plaintiff's Complaint, and calls upon the Plaintiff to prove same to the extent necessary at the time of trial.
17. The defendant denies the allegations contained in Paragraph 17.
18. The defendant denies the allegations contained in Paragraph 18.

WHEREFORE, defendant Minnesota Surgery Center respectfully requests that this Honorable Court dismiss the Second Count of the Plaintiff's First Amended Short Form Complaint and enter judgment in its behalf as to all claims made therein.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

In further answering, the defendant states that the Plaintiff's First Amended Short Form Complaint fails to state a claim against the defendant upon which relief can be granted. F.R.C.P. Rule 12.

SECOND DEFENSE

In further answering, the defendant states that process was insufficient and service of process was insufficient. F.R.C.P. Rule 12.

THIRD DEFENSE

In further answering, the defendant says that pending discovery, there may be evidence that the plaintiff herself was negligent, which may reduce or bar recovery in this action.

FOURTH DEFENSE

In further answering, the defendant states that the plaintiff, having been informed of the risks involved, consented to the procedures involved.

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THE DEFENDANT, MINNESOTA SURGERY CENTER, CLAIMS A FEDERAL COURT JURY TRIAL ON ALL ISSUES RAISED BY THIS CASE.

Respectfully submitted,
Defendant Minnesota Surgery Center,
By counsel,

/s/ Robert L. Bouley, Esquire
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Dated: 2/13/15

CERTIFICATE OF SERVICE

I, Robert L. Bouley, hereby certify that these documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants this 13th day of February, 2015.

/s/ Robert L. Bouley

Robert L. Bouley, Esquire